

Part 5

Procedure and Administration

59-10-501 Rulemaking authority -- Federal income tax return information.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to allow a taxpayer to submit specified excerpts from the taxpayer's federal income tax return rather than submitting a copy of the taxpayer's entire federal income tax return.

Amended by Chapter 212, 2009 General Session

59-10-502 Persons required to file returns.

An income tax return with respect to the tax imposed by this chapter shall be filed by:

- (1) every resident individual, estate, or trust required to file a federal income tax return for the taxable year; and
- (2) every nonresident individual, estate, or trust having federal gross income derived from sources within the state for the taxable year and required to file a federal income tax return for such taxable year.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-503 Returns by husband and wife.

- (1) A husband and wife may make a single return jointly with respect to the tax imposed by this chapter even though one of the spouses has neither gross income nor deductions, except as follows:
 - (a) No joint return shall be made if the husband and wife are not permitted to file a joint return for federal income tax purposes.
 - (b) If the federal income tax liability of husband or wife is determined on a separate return for federal income tax purposes, the income tax liability of each spouse shall be determined on a separate return under this chapter.
 - (c) If the federal income tax liabilities of husband and wife, other than a husband and wife described in Subsection (1)(b), are determined on a joint federal return, they shall file a joint return under this chapter and their tax liability shall be joint and several.
 - (d) If neither spouse is required to file a federal income tax return and either or both are required to file an income tax return under this chapter, they may elect to file separate or joint returns and their tax liability shall be several or joint and several, in accordance with the election made.
- (2) If either husband or wife is a resident and the other is a nonresident, they shall file separate income tax returns in this state on such forms as may be required by the commission, in which event their tax liability shall be several. They may elect to determine their joint taxable income as if both were residents, in which event their tax liability shall be joint and several.

Amended by Chapter 324, 2010 General Session

59-10-504 Returns made by fiduciaries and receivers.

Any fiduciary or receiver required to make a return for federal income tax purposes under the provisions of Section 6012(b) of the Internal Revenue Code shall make and file the corresponding state return for state income tax purposes.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-505 Return by minor.

- (1) As used in this section, "parent" includes an individual who is entitled to the services of an individual who is a minor by reason of having parental rights and duties with respect to the individual who is a minor.
- (2) If an individual who is a minor is required to make a return under this chapter, the return shall include:
 - (a) all income attributable to the individual's personal services; and
 - (b) all other items of the individual's income.
- (3) The income of an individual who is a minor may not be included on the return of the individual's parent.
- (4) An expenditure attributable to the income of an individual who is a minor that is made by the individual or the individual's parent is considered to have been paid or incurred by the individual who is a minor.
- (5) A tax assessed against an individual who is a minor, to the extent attributable to income from personal services, if not paid by the individual, for all purposes is considered as being properly assessable against the individual's parent.

Amended by Chapter 212, 2009 General Session

59-10-507 Return by a pass-through entity.

- (1) As used in this section:
 - (a) "Pass-through entity" is as defined in Section 59-10-1402.
 - (b) "Taxable year" means a year or other time period that would be a taxable year of a pass-through entity if the pass-through entity were subject to taxation under this chapter.
- (2) A pass-through entity having any income derived from or connected with Utah sources shall make a return for the taxable year in accordance with Section 59-10-514.

Amended by Chapter 87, 2016 General Session

59-10-508 Returns with respect to common trust funds.

Every bank or trust company maintaining a common trust fund shall make a return to the commission for each tax year in substantially the same form as it is required to make to the federal government.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-509 Notice of qualification as fiduciary.

Every receiver, trustee in bankruptcy, assignee for benefit of creditors, or other like fiduciary shall give the commission such notice of qualification in such capacity as the commission may by rule require.

Amended by Chapter 4, 1993 General Session

59-10-510 Return of electing small business corporation.

An electing small business corporation, as defined in Section 1371(a)(2), Internal Revenue Code, shall make a return for each taxable year, stating specifically:

- (1) the items of the electing small business corporation's gross income and the deductions allowable by Subtitle A, Internal Revenue Code;
- (2) the names and addresses of all persons owning stock in the electing small business corporation at any time during the taxable year;
- (3) the number of shares of stock owned by each shareholder at all times during the taxable year to each shareholder;
- (4) the date of each distribution to a shareholder; and
- (5) other information as the commission may prescribe by:
 - (a) form; or
 - (b) administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 212, 2009 General Session

59-10-511 Statement of tax withheld.

For requirement that an employer furnish an employee a statement of tax withheld, see Section 59-10-406.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-512 Signing of returns and other documents.

- (1) Except as otherwise provided by Subsection (2), any return, statement, or other document required to be made under any provision of this chapter shall be signed in accordance with forms or rules prescribed by the commission.
- (2) The return of a partnership made under Section 59-10-507 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.
- (3) The fact that an individual's name is signed on a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

Amended by Chapter 4, 1993 General Session

59-10-513 Verifications of returns.

Except as the commission shall otherwise provide by rule, any return, declaration, statement, or other document required to be made under any provision of this chapter, or under rules promulgated hereunder, shall contain or be verified by a written declaration that it is made under the penalties of perjury.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-514 Return filing requirements -- Rulemaking authority.

- (1) Subject to Subsection (3) and Section 59-10-518:
 - (a) an individual income tax return filed for a tax imposed in accordance with Part 1, Determination and Reporting of Tax Liability and Information, shall be filed with the

- commission on or before the day on which a federal individual income tax return is due under the Internal Revenue Code;
- (b) a fiduciary income tax return filed for a tax imposed in accordance with Part 2, Trusts and Estates, shall be filed with the commission on or before the day on which a federal return for estates and trusts is due under the Internal Revenue Code; or
 - (c) a return filed in accordance with Section 59-10-507 shall be filed with the commission on or before the 15th day of the fourth month following the last day of the taxpayer's taxable year.
- (2) A person required to make and file a return under this chapter shall, without assessment, notice, or demand, pay any tax due:
- (a) to the commission; and
 - (b) before the due date for filing the return, without regard to any extension of time for filing the return.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing what constitutes filing a return with the commission.

Amended by Chapter 87, 2016 General Session

59-10-514.1 Definitions -- Requirement to file returns by electronic means -- Exceptions -- Waiver.

- (1) As used in this section:
- (a) "Electronic" is as defined in Section 59-12-102.
 - (b)
 - (i) Except as provided in Subsection (1)(b)(ii), "income tax return preparer" means an individual that prepares for compensation a return required to be filed by this chapter.
 - (ii) "Income tax return preparer" does not include an individual who:
 - (A) performs only one or more of the following relating to a return required to be filed by this chapter:
 - (I) types the return;
 - (II) reproduces the return; or
 - (III) performs an action similar to Subsection (1)(b)(ii)(A)(I) or (II) as determined by the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 - (B) prepares a return required to be filed by this chapter:
 - (I) of the individual's employer or an officer or employee of the employer if the individual is regularly and continuously employed by that employer;
 - (II) of any person if that individual is a fiduciary for that person; or
 - (III) for a taxpayer in response to a tax order issued to that taxpayer.
 - (c) "Prepare" means to prepare a substantial portion or more of a return required to be filed by this chapter.
 - (d)
 - (i) Except as provided in Subsection (1)(d)(ii), "qualifying return" means a return required to be filed by this chapter for any taxable year that begins on or after the January 1 described in Subsection (2)(c)(i).
 - (ii) "Qualifying return" does not include:
 - (A) an amended return; or
 - (B)
 - (I) a return filed for any taxable year that begins before the first day of the current taxable year; and

(II) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "current taxable year".

- (2)
- (a) Subject to Subsections (2)(b) and (c) and except as provided in Subsection (3), an income tax return preparer shall file all qualifying returns by electronic means if the income tax return preparer prepares in any calendar year beginning on or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.
- (b)
- (i) For purposes of Subsection (2)(a), if two or more income tax return preparers are affiliated with the same establishment, the total number of returns required to be filed by this chapter that are prepared in a calendar year beginning on or after January 1, 2005, by all of the income tax return preparers that are affiliated with that establishment shall be included in determining whether an income tax return preparer prepares in a calendar year beginning on or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.
- (ii) For purposes of Subsection (2)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule determine the circumstances under which two or more income tax return preparers are affiliated with the same establishment.
- (c) If an income tax return preparer is required by this Subsection (2) to file all qualifying returns by electronic means, the income tax return preparer shall file those qualifying returns by electronic means:
- (i) beginning on January 1 of the first calendar year immediately following the day on which the income tax return preparer meets the requirements of this Subsection (2); and
- (ii) for all calendar years after the calendar year described in Subsection (2)(c)(i).
- (3) An income tax return preparer is not required to file a qualifying return by electronic means if:
- (a) a schedule required to be attached to the qualifying return cannot be filed by electronic means;
- (b) the taxpayer for which the qualifying return is prepared requests in writing that the income tax return preparer not file the qualifying return by electronic means; or
- (c) subject to Subsection (4), the commission waives for one or more qualifying returns filed by the income tax return preparer the requirement imposed by this section to file the qualifying returns by electronic means.
- (4)
- (a) For purposes of Subsection (3)(c), the commission may waive for one or more qualifying returns filed by an income tax return preparer the requirement imposed by this section to file the qualifying returns by electronic means if the income tax return preparer demonstrates to the commission that it would be an undue hardship to file the qualifying returns by electronic means.
- (b) For purposes of Subsection (4)(a) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define the circumstances that constitute an undue hardship to file a qualifying return by electronic means.

Amended by Chapter 201, 2010 General Session

59-10-515 Place and time for filing other documents.

The commission by rule shall fix the place and time for filing other documents.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-516 Filing extension -- Payment of tax -- Penalty -- Foreign residency.

- (1)
 - (a) The commission shall allow a taxpayer an extension of time for filing a return.
 - (b)
 - (i) For a return filed by a taxpayer except for a partnership, the extension under Subsection (1) (a) may not exceed six months.
 - (ii) For a return filed by a partnership, the extension under Subsection (1)(a) may not exceed five months.
- (2)
 - (a) Except as provided in Subsection (2)(b), the commission may not impose on a taxpayer during the extension period prescribed under Subsection (1) a penalty under Section 59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year, the lesser of:
 - (i) 90% of the total tax reported on the return for the current taxable year; or
 - (ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.
 - (b) If a taxpayer fails to meet the requirements of Subsection (2)(a), the commission may apply to the total balance due a penalty as provided in Section 59-1-401.
- (3) If a federal income tax return filing is lawfully delayed pending a determination of qualification for a federal tax exemption due to residency outside of the United States, a taxpayer shall file a return within 30 days after that determination is made.

Amended by Chapter 271, 2010 General Session

59-10-517 Timely mailing treated as timely filing and paying.

- (1)
 - (a) If any return, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under authority of any provision of this chapter is, after such period or such date, delivered by United States mail to the agency, officer, or office with which such return, claim, statement, or other document is required to be filed, or to which such payment is required to be made, the date of the United States postmark stamped on the cover in which such return, claim, statement, or other document, or payment, is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be.
 - (b) Subsection (1)(a) shall apply only if:
 - (i) the postmark date falls within the prescribed period or on or before the prescribed date:
 - (A) for the filing (including any extension granted for such filing) of the return, claim, statement, or other document; or
 - (B) for making the payment (including any extension granted for making such payment); and
 - (ii) the return, claim, statement, or other document, or payment, was, within the time prescribed in Subsection (1)(b)(i), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, officer, or office with which the return, claim, statement, or other document is required to be filed, or to which such payment is required to be made.
- (2) This section shall apply in the case of postmarks not made by the United States post office only if and to the extent provided by rules prescribed by the commission.

- (3)
 - (a) For purposes of this section, if any such return, claim, statement, or other document, or payment, is sent by United States registered mail:
 - (i) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed; and
 - (ii) the date of registration shall be deemed the postmark date.
 - (b) The commission may provide by rule the extent to which the provisions of Subsection (3)(a) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.
- (4) This section does not apply with respect to currency or other medium of payment unless actually received and accounted for.
- (5)
 - (a) If any deposit required to be made on or before a prescribed date is, after such date, delivered by the United States mail to the commission, such deposit shall be deemed received by the commission on the date the deposit was mailed.
 - (b) Subsection (5)(a) applies only if the person required to make the deposit establishes that:
 - (i) the date of mailing falls on or before the second day before the prescribed date for making the deposit (including any extension of time granted for making the deposit); and
 - (ii) the deposit was, on or before such second day, mailed in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the commission.

Amended by Chapter 324, 2010 General Session

59-10-518 Time for performance of acts when last day falls on Saturday, Sunday, or legal holiday.

- (1) As used in this section, "legal holiday" means a legal holiday in this state.
- (2) If the last day prescribed under authority of this chapter for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of the act shall be considered to be timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.
- (3) For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time.

Amended by Chapter 87, 2016 General Session

59-10-519 Place for filing returns or other documents.

When not otherwise provided for by this chapter, the commission shall by rule prescribe the place for the filing of any return, statement, or other documents, or copies thereof, required by this chapter or rules.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-520 Time and place for paying tax shown on returns.

- (1) When a return of tax is required under this chapter or rules, the person required to make such return shall, without assessment or notice and demand from the commission, pay such tax to the commission office with which the return is filed, and shall pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time).

- (2) In any case where a tax is required to be paid on or before a certain date, or within a certain period, any reference in this chapter to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax).

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-522 Extension of time for paying tax.

- (1) The commission, except as otherwise provided by this chapter, may extend the time for payment of the amount shown, or required to be shown, on any return required under authority of this chapter (or any installment thereof), for a reasonable period not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the cases of taxpayers who are outside the states of the union and the District of Columbia.
- (2) Under rules prescribed by the commission, the time for payment of the amount determined as a deficiency may be extended for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months. An extension under this subsection may be granted only where it is shown to the satisfaction of the commission that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer. No extension may be granted if the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to evade tax.
- (3) Extensions of time for payment of any portion of a claim for tax under this chapter, allowed in bankruptcy or receivership proceedings, which is unpaid, may be had in the same manner and subject to the same provisions and limitations as provided in Subsection (2) in respect of a deficiency in tax.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-527 Assessment authority.

- (1) The commission shall make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this chapter or former chapters imposing income taxes.
- (2) The assessment shall be made by recording the liability of the taxpayer in the office of the commission in accordance with rules prescribed by the commission. The commission may, at any time within the period prescribed for assessment, make a supplemental assessment if it is ascertained that any assessment is imperfect or incomplete in any material respect.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-529 Overpayment of tax -- Credits -- Refunds.

- (1) If there has been an overpayment of any tax imposed by this chapter, the amount of overpayment is credited as follows:
 - (a) against an income tax due from a taxpayer;
 - (b) against:
 - (i) the amount of a judgment against a taxpayer, including a final judgment or order requiring payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims Restitution Act, obtained through due process of law by an entity of state or local government; or

- (ii) subject to Subsection (4)(a)(i), a child support obligation that is due or past due, as determined by the Office of Recovery Services in the Department of Human Services and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection (2); or
 - (c) subject to Subsection (3), (5), (6), or (7), as bail, to ensure the appearance of a taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer for which bail is due, if a court of competent jurisdiction has not approved an alternative form of payment.
- (2) If a balance remains after an overpayment is credited in accordance with Subsection (1), the balance shall be refunded to the taxpayer.
- (3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:
 - (a) that is due and related to a warrant that is outstanding on or after February 16, 1984; and
 - (b) in accordance with Subsections (5) and (6).
- (4)
 - (a) The amount of an overpayment may be credited against an obligation described in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the taxpayer's last-known address or the address on file under Section 62A-11-304.4, stating:
 - (i) the amount of child support that is due or past due as of the date of the notice or other specified date;
 - (ii) that any overpayment shall be applied to reduce the amount of due or past-due child support specified in the notice; and
 - (iii) that the taxpayer may contest the amount of past-due child support specified in the notice by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of Recovery Services shall establish rules to implement this Subsection (4), including procedures, in accordance with the other provisions of this section, to ensure:
 - (i) prompt reimbursement to a taxpayer of any amount of an overpayment that was credited against a child support obligation in error; and
 - (ii) prompt distribution of properly credited funds to the obligee parent.
- (5) The amount of an overpayment may be credited against bail described in Subsection (1)(c) if:
 - (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail, appear, or otherwise satisfy the terms of a citation, summons, or court order; and
 - (b) a notice of intent to apply the overpayment as bail on the issued warrant has been sent to the taxpayer's current address on file with the commission.
- (6)
 - (a)
 - (i) The commission shall deliver an overpayment applied as bail to the court that issued the warrant of arrest.
 - (ii) The clerk of the court is authorized to endorse the check or commission warrant of payment on behalf of the payees and deposit the money in the court treasury.
 - (b)
 - (i) The court receiving an overpayment applied as bail shall order withdrawal of the warrant for arrest of the taxpayer if:
 - (A) the case is a case for which a personal appearance of the taxpayer is not required; and
 - (B) the dollar amount of the overpayment represents the full dollar amount of bail.
 - (ii) In a case except for a case described in Subsection (6)(b)(i):

- (A) the court receiving the overpayment applied as bail is not required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and
 - (B) the taxpayer may be arrested on the warrant.
- (c)
- (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the overpayment applied as bail is forfeited.
 - (ii) A court may issue another warrant or allow the original warrant to remain in force if:
 - (A) the taxpayer has not complied with an order of the court;
 - (B) the taxpayer has failed to appear and respond to a criminal charge for which a personal appearance is required; or
 - (C) the taxpayer has paid partial but not full bail in a case for which a personal appearance is not required.
 - (d) If the alleged violations named in a warrant are later resolved in favor of the taxpayer, the bail amount shall be remitted to the taxpayer.
- (7) The fine and bail forfeiture provisions of this section apply to all warrants, fines, fees, and surcharges issued in cases charging a taxpayer with a felony, a misdemeanor, or an infraction described in this section, which are outstanding on or after February 16, 1984.
- (8) If the amount allowable as a credit for tax withheld from a taxpayer exceeds the tax to which the credit relates, the excess is considered an overpayment.
- (9)
- (a) Subject to Subsection (9)(b), a claim for credit or refund of an overpayment that is attributable to a net operating loss carry back or carry forward shall be filed within three years from the due date of the return for the taxable year of the net operating loss.
 - (b) The three-year period described in Subsection (9)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (9)(a).
- (10) If there is no tax liability for a period in which an amount is paid under this chapter, the amount is an overpayment.
- (11) If a tax under this chapter is assessed or collected after the expiration of the applicable period of limitation, that amount is an overpayment.
- (12)
- (a) A taxpayer may file a claim for a credit or refund of an overpayment within two years from the date a notice of change, notice of correction, or amended return is required to be filed with the commission if the taxpayer is required to:
 - (i) report a change or correction in income reported on the taxpayer's federal income tax return;
 - (ii) report a change or correction that is treated in the same manner as if the change or correction were an overpayment for federal income tax purposes; or
 - (iii) file an amended return with the commission.
 - (b) If a report or amended return is not filed within 90 days, interest on any resulting refund or credit ceases to accrue after the 90-day period.
 - (c) The amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal change, correction, or items amended on the taxpayer's amended federal income tax return.
 - (d) Except as provided in Subsection (12)(a), this Subsection (12) does not affect the amount or the time within which a claim for credit or refund may be filed.
- (13) A credit or refund may not be allowed or made if an overpayment is less than \$1.

- (14) In the case of an overpayment of tax by an employer under Part 4, Withholding of Tax, a refund or credit shall be made to the employer only to the extent that the amount of the overpayment is not deducted and withheld from wages under this chapter.
- (15)
- (a) If a taxpayer that is allowed a refund under this chapter dies, the commission may make payment to the personal representative of the taxpayer's estate.
 - (b) If there is no personal representative of the taxpayer's estate, payment may be made to those persons who establish entitlement to inherit the property of the decedent in the proportions established in Title 75, Utah Uniform Probate Code.
- (16) If an overpayment relates to a change in net income described in Subsection 59-10-536(2)
- (a), a credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.
- (17) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 74, 2013 General Session

59-10-529.1 Time period for commission to issue a refund.

- (1) Except as provided in Subsection (2), the commission may not issue a refund before March 1.
- (2) The commission may issue a refund before March 1 if, before March 1, the commission determines that:
- (a) an employer has filed the one or more forms in accordance with Subsection 59-10-406(8) the employer is required to file with respect to an individual; and
 - (b) the individual has filed a return in accordance with this chapter.

Enacted by Chapter 369, 2015 General Session

59-10-531 Claims for refund or credit.

A taxpayer that claims to be allowed a refund or credit under Section 59-10-529 may file a claim for the refund or credit with the commission within the time provided in Section 59-10-529.

Amended by Chapter 212, 2009 General Session

59-10-536 Assessment and collection of tax -- Change on federal income tax return -- Taxpayer requirement to make certain filings with the commission.

- (1)
- (a) If, before the expiration of the time prescribed in this section for the assessment of a tax, the commission and the taxpayer agree in writing to the assessment of the tax in a time period after the time period prescribed in this section for the assessment of a tax, the tax may be assessed at any time before the expiration of the period to which the commission and the taxpayer agree.
 - (b) A time period that the commission and a taxpayer agree upon under Subsection (1)(a) may be extended by written agreement:
 - (i) between the commission and the taxpayer; and
 - (ii) made before the expiration of the time period that the commission and the taxpayer previously agreed upon.
- (2)
- (a)

- (i) Except as provided in Subsection (2)(a)(iii), if a change is made in a taxpayer's net income on the taxpayer's federal income tax return because of an action by the federal government, the taxpayer shall file with the commission within 90 days after the date there is a final determination of the action:
 - (A) a copy of the taxpayer's amended federal income tax return; and
 - (B) an amended state income tax return that conforms with the changes made in the taxpayer's amended federal income tax return.
 - (ii) Except as provided in Subsection (2)(a)(iii), if a change is made in a taxpayer's net income on the taxpayer's federal income tax return because the taxpayer files an amended federal income tax return, the taxpayer shall file with the commission within 90 days after the date the taxpayer files the amended federal income tax return:
 - (A) a copy of the taxpayer's amended federal income tax return; and
 - (B) an amended state income tax return that conforms with the changes made in the taxpayer's amended federal income tax return.
 - (iii) A taxpayer is not required to file a return described in Subsection (2)(a)(i) or (ii) if a change in the taxpayer's federal income tax return does not increase state tax liability.
- (b)
- (i) Subject to Subsection (2)(b)(iii), the commission may assess a deficiency in state income taxes within three years after a notification or amended federal income tax return described in Subsection (2)(a) is filed.
 - (ii) The amount of an assessment of tax under this Subsection (2)(b) may not exceed the amount of the increase in Utah tax attributable to the change described in Subsection (2)(a).
 - (iii) If a taxpayer fails to report to the commission a change specified in this Subsection (2)(b), the assessment may be made at any time within six years after the date of the change.
- (3) If a deficiency in federal income tax required to be reported is attributable to a net operating loss carry back or carry forward, a deficiency in the tax imposed by this chapter may be assessed within three years from the due date of the return for the taxable year of the net operating loss.
- (4) Except as provided in Subsections (1) through (3), this section does not affect the time within which or the amount for which an assessment may otherwise be made.
- (5)
- (a) An erroneous refund shall be considered an underpayment of tax on the date the commission makes the erroneous refund.
 - (b) An assessment of a deficiency arising out of an erroneous refund may be made at any time within three years from the date the refund is made, except that an assessment may be made within five years from the time the refund is made if any part of the refund is induced by fraud or misrepresentation of a material fact.
- (6)
- (a) Subject to Subsection (6)(b), if a return is required for a decedent or for the decedent's estate during the period of administration, the tax shall be assessed within 18 months after written request for the assessment:
 - (i) made after the return is filed; and
 - (ii) by:
 - (A) the personal representative; or
 - (B) another person representing the estate of the decedent.
 - (b) Except as otherwise provided in this section, the assessment described in Subsection (6)(a) may not be made more than three years after the time the return is filed.
- (7)

- (a) The amount of a tax imposed by this chapter may be assessed at any time within six years after the time the return is filed if:
 - (i) a resident individual, resident estate, or resident trust omits from gross income as reported for federal income tax purposes an amount properly includable in adjusted gross income, which is in excess of 25% of the amount of gross income stated in the return; or
 - (ii) a nonresident individual, nonresident estate, or nonresident trust omits from gross income as reported for federal income tax purposes an amount of adjusted gross income derived from Utah sources determined in accordance with Section 59-10-117, properly includable in adjusted gross income, that is in excess of 25% of the amount of adjusted gross income derived from Utah sources which is reflected in the return.
- (b) For purposes of Subsection (7)(a)(ii), there may not be taken into account any amount that is omitted in the return if the amount is disclosed:
 - (i)
 - (A) in the return; or
 - (B) in a statement attached to the return; and
 - (ii) in a manner adequate to apprise the commission of the nature and amount of the item.

Amended by Chapter 53, 2011 General Session

59-10-537 Interest on underpayment, nonpayment, or extension of time for payment of tax.

- (1)
 - (a) Subject to the other provisions of this section, if any amount of income tax is not paid on or before the last date prescribed in this chapter for payment, interest on the amount at the rate and in the manner prescribed in Section 59-1-402 shall be paid.
 - (b) Interest under this Subsection (1) may not be paid if the amount of the interest is less than \$1.
 - (c) If the time for filing of a return of tax withheld by an employer is extended, the employer shall pay interest for the period for which the extension is granted and may not charge such interest to the employee.
- (2) If a deficiency or any interest or additional amount assessed in connection with an amount under Subsection (1), or a penalty in case of a delinquency provided for in Section 59-10-539 is not paid in full within 10 days from the date of notice and demand from the commission, there shall be collected as part of the tax, interest at the rate and in the manner prescribed in Section 59-1-402 from the date of the notice and demand until the entire amount of the deficiency, interest, and additional amount is paid.
- (3) If the time for payment of the amount determined as the tax by the taxpayer is extended under the authority of Section 59-10-522, interest shall be collected as a part of the amount at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 212, 2009 General Session

59-10-538 Interest on overpayments.

- (1) Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this chapter, at the rate and in the manner prescribed in Section 59-1-402.
- (2) For purposes of this section, if any overpayment of tax imposed by this chapter results from a carryback of a net operating loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year of the net operating loss which results in such carryback.

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

59-10-539 Penalties and interest.

- (1)
 - (a) In case of failure to file an income tax return and pay the tax required under this chapter on or before the date prescribed for paying the tax, including extensions, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return a penalty as provided in Section 59-1-401.
 - (b) For purposes of Subsection (1)(a), the amount of tax required to be shown on a return shall be reduced by:
 - (i) the amount of any part of the tax that is paid on or before the date prescribed for payment of the tax; and
 - (ii) the amount of any credit against the tax that may be claimed upon the return.
- (2) If any part of any deficiency in a tax imposed by this chapter is due to negligence or intentional disregard of rules, but without intent to defraud, a penalty shall be assessed, collected, and paid as provided in Section 59-1-401 in the same manner as if the deficiency were an underpayment.
- (3)
 - (a) If any part of a deficiency in a tax imposed by this chapter is due to fraud, there shall be added to the tax a penalty as provided in Section 59-1-401.
 - (b) The amount described in Subsection (3)(a) shall be in lieu of any other penalty imposed by Subsection (1) or (2).
- (4)
 - (a) If any employer, without intent to evade or defeat any tax imposed by this chapter or the payment of any tax imposed by this chapter, fails to make a return and pay a tax withheld by the employer at the time required under Section 59-10-402, the employer shall be liable for the tax and shall pay the tax together with interest at the rate and in the manner prescribed in Section 59-1-402.
 - (b) The penalty provided in Subsection (1) and interest may not be charged to or collected from the employee by the employer.
 - (c) The commission has the same rights and powers for the collection of a tax, interest, and penalty against an employer described in this section as are prescribed by this chapter for the collection of tax against an individual taxpayer.
- (5)
 - (a) Any person required to collect, truthfully account for, and pay over the tax imposed by this chapter who willfully fails to collect the tax or truthfully account for and pay over the tax or willfully attempts in any manner to evade or default the tax or the payment of the tax, shall, in addition to other penalties provided by law, be liable for a penalty as provided in Section 59-1-401.
 - (b) A penalty described in Subsection (1) or (2) may not be imposed for any offense to which Subsection (5)(a) applies.
- (6) In case of each failure to file a statement of a payment to another person, required under authority of Section 59-10-406, relating to information at source, including the duplicate statement of tax withheld on wages, on the date prescribed for filing the statement, including extensions, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall, upon notice and demand by the commission and in the same manner as tax, be paid by the person that fails to file the statement, a penalty as provided in Section 59-1-401.

- (7)
- (a) Except as provided in Subsection (7)(b) or (c), a person is subject to a penalty as provided in Section 59-1-401 if the person fails to do one or more of the following as required by rules prescribed by the commission under this chapter:
 - (i) to include the person's identifying number in any return, statement, or other document;
 - (ii) to furnish the person's identifying number to another person; or
 - (iii) to include on any return, statement, or other document made with respect to another person the identifying number of the other person.
 - (b) A person is not subject to a penalty under Subsection (7)(a) if it is shown that the person's failure to do an act described in Subsection (7)(a) is due to reasonable cause.
 - (c) If a person fails to include the person's own identification number in any return, statement, or other document, a penalty under Subsection (7)(a) may not be imposed unless the person fails to supply the person's identification number to the commission within 30 days after the commission requests the identification number.
- (8) In addition to the penalties required by this section, there shall be added to a tax due interest payable at the rate and in the manner prescribed in Section 59-1-402 for underpayments.
- (9) The penalties and interest required by this section shall be:
- (a) paid upon notice and demand by the commission in accordance with Section 59-1-1411; and
 - (b) assessed, collected, and paid in accordance with Chapter 1, Part 14, Assessment, Collections, and Refunds Act.
- (10) A reference in this chapter to income tax or tax imposed by this chapter is considered to include the penalties and interest provided by this section.
- (11) For purposes of Subsections (2) and (3), the amount shown as the tax by the taxpayer upon the taxpayer's return shall be taken into account in determining the amount of the deficiency only if the return is filed on or before the last day prescribed for filing of the return, including extensions.

Amended by Chapter 212, 2009 General Session

59-10-541 Violations -- Civil and criminal penalties.

- (1) Every person who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, is liable for a penalty as provided in Section 59-1-401.
- (2) It is unlawful for any person, with intent to evade any tax, to fail to timely remit the full amount of tax required by this chapter. A violation of this section is punishable as provided in Section 59-1-401.
- (3) Any person who knowingly or intentionally makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information is guilty of a criminal violation as provided in Section 59-1-401.
- (4) Any person who, with intent to evade any tax or any requirement of this chapter, or any lawful requirement of the commission, fails to pay the tax, or to make, render, sign, or verify any return, or to supply any information, within the time required by or under this chapter, or who, with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, is liable for a civil penalty as provided in Section 59-1-401, and is also guilty of a criminal violation as provided in Section 59-1-401.

Amended by Chapter 9, 2001 General Session

59-10-544 General powers and duties of the commission -- Deposit, distribution, or credit of revenues -- Refund reverts to state under certain circumstances.

(1)

- (a) The commission shall administer and enforce a tax imposed under this chapter for which purpose it may divide the state into districts in each of which a branch office of the commission may be maintained.
- (b) A county may not be divided in forming a district.

(2)

- (a) The commission shall daily deposit all revenue collected or received by the commission under this chapter with the state treasurer.
- (b) Subject to Sections 59-10-529 and 59-10-531, the balance of the revenue described in Subsection (2)(a) shall be periodically distributed and credited to the Education Fund.
- (c) If a refund the commission makes is not claimed within two years from the date the commission issues the refund:
 - (i) the refund reverts to the state to be credited to the Education Fund; and
 - (ii) no further claim may be made on the commission for the amount of the refund.

Amended by Chapter 212, 2009 General Session

59-10-546 Application of former law.

Nothing in this chapter applies to or affects any tax, interest, or additions to tax or penalties, imposed by or due under former Title 59, Chapter 14, Cigarette and Tobacco Tax and Licensing Act, in respect of taxable years commencing before January 1, 1973.

Renumbered and Amended by Chapter 2, 1987 General Session